

9H.5 Restrictions on authorized farm corporations, authorized limited liability companies, authorized trusts, limited partnerships, and authorized unincorporated nonprofit associations — penalty.

1. An authorized farm corporation, authorized limited liability company, or authorized trust shall not, on or after July 1, 1987, a limited partnership other than a family farm limited partnership shall not, on or after July 1, 1988, and an authorized unincorporated nonprofit association shall not, on or after July 1, 2010, either directly or indirectly, acquire or otherwise obtain or lease agricultural land, if the total agricultural land either directly or indirectly owned or leased by the authorized farm corporation, authorized limited liability company, limited partnership, authorized trust, or authorized unincorporated nonprofit association would then exceed one thousand five hundred acres.

a. However, the restrictions provided in this subsection do not apply to agricultural land that is leased by an authorized farm corporation, authorized trust, limited partnership, or authorized unincorporated nonprofit association to the immediate prior owner of the land for the purpose of farming, as defined in section 9H.1. Upon cessation of the lease to the immediate prior owner, the authorized farm corporation, authorized trust, limited partnership, or authorized unincorporated nonprofit association shall, within three years following the date of the cessation, sell or otherwise dispose of the agricultural land leased to the immediate prior owner.

b. This subsection also does not apply to land that is held or acquired and maintained by an authorized farm corporation, authorized trust, limited partnership, or authorized unincorporated nonprofit association to protect significant elements of the state's natural open space heritage, including but not limited to significant river, lake, wetland, prairie, forest areas, other biologically significant areas, land containing significant archaeological, historical, or cultural value, or fish or wildlife habitats, as defined in rules adopted by the department of natural resources.

2. a. A person shall not, after July 1, 1988, become a stockholder of an authorized farm corporation, a beneficiary of an authorized trust, a member of an authorized limited liability company, or a limited partner in a limited partnership which owns or leases agricultural land if the person is also any of the following:

- (1) A stockholder of an authorized farm corporation.
- (2) A beneficiary of an authorized trust.
- (3) A limited partner in a limited partnership which owns or leases agricultural land.
- (4) A member of an authorized limited liability company.

b. However, this subsection shall not apply to limited partners in a family farm limited partnership.

3. a. A person shall not, after July 1, 2010, become a member of an authorized unincorporated nonprofit association that owns or leases agricultural land if the person is also any of the following:

- (1) A stockholder of an authorized farm corporation.
- (2) A beneficiary of an authorized trust.
- (3) A limited partner in a limited partnership which owns or leases agricultural land.
- (4) A member of an authorized limited liability company.
- (5) A member of another authorized unincorporated nonprofit association.

b. A person shall not, after July 1, 2010, become a stockholder of an authorized farm corporation, a beneficiary of an authorized trust, a limited partner in a limited partnership, or a member of an authorized limited liability company that owns or leases agricultural land, if the person is a member of an authorized unincorporated nonprofit association.

c. This subsection shall not apply to limited partners in a family farm limited partnership.

4. a. An authorized farm corporation, authorized trust, authorized limited liability company, limited partnership, or authorized unincorporated nonprofit association violating this section shall be assessed a civil penalty of not more than twenty-five thousand dollars and shall divest itself of any land held in violation of this section within one year after judgment. A civil penalty of not more than one thousand dollars may be imposed on a person who becomes a stockholder of an authorized farm corporation, beneficiary of an authorized trust, member of an authorized limited liability company, limited partner in a limited

partnership, or member in an authorized unincorporated nonprofit association in violation of this section. The person shall divest the interest held by the person in the corporation, trust, limited liability company, limited partnership, or authorized unincorporated nonprofit association to comply with this section. The court may determine the method of divesting an interest held by a person found to be in violation of this chapter. A financial gain realized by a person who disposes of an interest held in violation of this chapter shall be forfeited to the state's general fund. All court costs and fees shall be paid by the person holding the interest in violation of this chapter.

b. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section.

5. As used in this section, "*authorized trust*" does not include a revocable trust.

87 Acts, ch 146, §1

CS87, §172C.5

88 Acts, ch 1191, §4; 91 Acts, ch 172, §5

C93, §9H.5

93 Acts, ch 39, §14 – 16; 94 Acts, ch 1153, §6; 2008 Acts, ch 1032, §201; 2010 Acts, ch 1112, §38 – 40

Referred to in §10.3, 10.5, 10.7, 10.10